

**U.S. District Court
Southern District of Florida (Miami)
CIVIL DOCKET FOR CASE #: 1:18-cv-24218-DPG**

Mandell v. SEC Commission et al
Assigned to: Judge Darrin P. Gayles
Referred to: Magistrate Judge Alicia M. Otazo-Reyes
Cause: 05:0552 Freedom of Information Act

Date Filed: 10/12/2018
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Ross H. Mandell

represented by **Matthew V. Topic**
Loevy & Loevy
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ATTORNEY TO BE NOTICED

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V.

Defendant

United States Department of Justice

represented by **Carlos Javier Raurell**
United States Attorney's Office
99 NE 4 Street
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305-961-9243
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Email: carlos.raurell@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Federal Bureau of Investigation (FBI)

represented by **Carlos Javier Raurell**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

United States Securities and Exchange Commission (SEC)

represented by **Carlos Javier Raurell**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
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10/12/2018	<u>1</u>	COMPLAINT against DOJ, FBI Headquarters, SEC Commission. Filing fees \$ 400.00 receipt number 113C-11072590, filed by Ross H. Mandell. (Attachments: # <u>1</u> Exhibit)(Astor, Mark) (Entered: 10/12/2018)
10/15/2018	<u>2</u>	Clerks Notice of Judge Assignment to Judge Darrin P. Gayles. Pursuant to 28 USC 636(c), the parties are hereby notified that the U.S. Magistrate Judge Alicia M. Otazo-Reyes is available to handle any or all proceedings in this case. If agreed, parties should complete and file the Consent form found on our website. It is not necessary to file a document indicating lack of consent. (vmz) (Entered: 10/15/2018)
10/15/2018	<u>3</u>	Clerks Notice to Filer re: Electronic Case. No Civil Cover Sheet. Filer is instructed to file a Notice (Other) with the Civil Cover Sheet attached within 24 hours of the notice. (vmz) (Entered: 10/15/2018)
10/15/2018	<u>4</u>	Clerks Notice to Filer re: Electronic Case. Party(ies) Improperly Formatted. The Filer failed to enter the party name(s) in accordance with the CM/ECF Format for Adding Parties for Attorneys Guide. The correction was made. It is not necessary to re-file the document. (vmz) (Entered: 10/15/2018)
10/15/2018	<u>5</u>	Clerks Notice to Filer re: Electronic Case. Parties Not Added. The Filer failed to add all parties associated with the case. Filer is instructed to add the additional parties by filing a Notice of Entry of Parties. It is not necessary to re-file this document. (vmz) (Entered: 10/15/2018)
10/15/2018	<u>6</u>	NOTICE OF COURT PRACTICE. Unless otherwise specified by the Court, every motion shall be double-spaced in Times New Roman 12-point typeface. Multiple Plaintiffs or Defendants shall file joint motions with co-parties unless there are clear conflicts of position. If conflicts of position exist, parties shall explain the conflicts in their separate motions. Failure to comply with ANY of these procedures may result in the imposition of appropriate sanctions, including but not limited to, the striking of the motion or dismissal of this action. Signed by Judge Darrin P. Gayles on 10/15/2018. (isc) (Entered: 10/15/2018)
10/16/2018	<u>7</u>	NOTICE of Change of Address by Mark Gary Astor (Astor, Mark) (Entered: 10/16/2018)
10/16/2018	<u>8</u>	NOTICE of Filing Proposed Summons(es) by Ross H. Mandell (Attachments: # <u>1</u> Summon(s), # <u>2</u> Summon(s), # <u>3</u> Summon(s), # <u>4</u> Summon(s), # <u>5</u> Summon(s)) (Astor, Mark) (Entered: 10/16/2018)
10/16/2018	<u>9</u>	NOTICE by Ross H. Mandell <i>Civil Cover Sheet</i> (Astor, Mark) Modified text on 10/17/2018 (vmz). (Entered: 10/16/2018)
10/17/2018	<u>10</u>	Summons Issued as to Federal Bureau of Investigation (FBI), United States Department of Justice (DOJ), United States Securities and Exchange Commission (SEC), U.S. Attorney and U.S. Attorney General (vmz) (Entered: 10/17/2018)
10/31/2018	<u>11</u>	NOTICE by Ross H. Mandell (Astor, Mark) (Entered: 10/31/2018)
10/31/2018	<u>12</u>	NOTICE by Ross H. Mandell (Astor, Mark) (Entered: 10/31/2018)
10/31/2018	<u>13</u>	NOTICE by Ross H. Mandell (Astor, Mark) (Entered: 10/31/2018)
10/31/2018	<u>14</u>	SUMMONS (Affidavit) Returned Executed United States Department of Justice served on 10/23/2018, answer due 12/24/2018. (See Image DE <u>11</u>) (vmz) (Entered: 10/31/2018)
10/31/2018	<u>15</u>	Clerks Notice to Filer re <u>11</u> Notice (Other). Wrong Event Selected; ERROR – The Filer selected the wrong event. The document was re-docketed by the Clerk, see 14 . It is not necessary to refile this document. (vmz) (Entered: 10/31/2018)
10/31/2018	<u>16</u>	SUMMONS (Affidavit) Returned Executed United States Securities and Exchange Commission (SEC) served on 10/22/2018, answer due 12/21/2018. (See image DE <u>12</u>) (vmz) (Entered: 10/31/2018)
10/31/2018	<u>17</u>	Clerks Notice to Filer re <u>12</u> Notice (Other). Wrong Event Selected; ERROR – The Filer selected the wrong event. The document was re-docketed by the Clerk, see 16 . It is not necessary to refile this document. (vmz) (Entered: 10/31/2018)

10/31/2018	<u>18</u>	SUMMONS (Affidavit) Returned Executed U.S. Attorney General served on 10/23/2018, answer due 12/24/2018. (See Image DE <u>13</u>) (vmz) (Entered: 10/31/2018)
10/31/2018	<u>19</u>	Clerks Notice to Filer re <u>13</u> Notice (Other). Wrong Event Selected; ERROR – The Filer selected the wrong event. The document was re-docketed by the Clerk, see 18 . It is not necessary to refile this document. (vmz) (Entered: 10/31/2018)
11/01/2018	<u>20</u>	SUMMONS (Affidavit) Returned Executed by Ross H. Mandell. Federal Bureau of Investigation (FBI) served on 10/23/2018, answer due 12/24/2018. (Astor, Mark) (Entered: 11/01/2018)
11/19/2018	<u>21</u>	<i>Defendants' ANSWER and Affirmative Defenses to Complaint by Federal Bureau of Investigation (FBI), United States Department of Justice, United States Securities and Exchange Commission (SEC). Attorney Carlos Javier Raurell added to party Federal Bureau of Investigation (FBI)(pty:dft), Attorney Carlos Javier Raurell added to party United States Department of Justice(pty:dft), Attorney Carlos Javier Raurell added to party United States Securities and Exchange Commission (SEC)(pty:dft). (Raurell, Carlos)</i> (Entered: 11/19/2018)
11/19/2018	<u>22</u>	<p>ENDORSED ORDER REQUIRING JOINT SCHEDULING REPORT AND PROPOSED SCHEDULING ORDER. Pursuant to S.D. Fla. Local Rule 16.1, on or before December 6, 2018, the parties shall prepare and file a Joint Scheduling Report, as well as Certificates of Interested Parties and Corporate Disclosure Statements.</p> <p>The parties shall also file a Proposed Scheduling Order, adhering to the format and guidance of the attached form. If the parties deviate in any way from that format and guidance, they shall contemporaneously submit a written explanation, which provides their purported justification for each and every deviation. <i>If the parties fail to submit such written explanation, the Court may enter a Scheduling Order that does not take into account the parties' proposed dates.</i></p> <p>Failure to comply with this Order shall be grounds for dismissal without prejudice and without further notice. Signed by Judge Darrin P. Gayles on 11/19/2018. <i>See attached document for full details.</i> (isc) (Entered: 11/19/2018)</p>
01/28/2019	<u>23</u>	Defendant's MOTION for entry of a briefing schedule in lieu of standard trial setting order by Federal Bureau of Investigation (FBI), United States Department of Justice, United States Securities and Exchange Commission (SEC). (Raurell, Carlos) (Entered: 01/28/2019)
01/29/2019	<u>24</u>	ORDER granting <u>23</u> Motion for Entry of Briefing Schedule in Lieu of Standard Trial Setting Order. Signed by Judge Darrin P. Gayles on 1/29/2019. <i>See attached document for full details.</i> (isc) (Entered: 01/29/2019)
01/30/2019	<u>25</u>	PAPERLESS ORDER REFERRING CASE to Magistrate Judge Alicia M. Otazo-Reyes for a ruling on all non-dispositive matters and for a report and recommendation on all dispositive matters. Signed by Judge Darrin P. Gayles on 1/30/2019. (isc) (Entered: 01/30/2019)
01/30/2019	<u>26</u>	CASE REFERRED to Magistrate Judge Alicia M. Otazo-Reyes per DE 25. (vjk) (Entered: 01/31/2019)
04/01/2019	<u>27</u>	Defendant's MOTION for Summary Judgment by Federal Bureau of Investigation (FBI), United States Department of Justice, United States Securities and Exchange Commission (SEC). Responses due by 4/15/2019 (Attachments: # <u>1</u> Exhibit Hardy Declaration, # <u>2</u> Exhibit Jolly Declaration, # <u>3</u> Exhibit Tallarico Declaration, # <u>4</u> Exhibit Keyes Declaration)(Raurell, Carlos) (Entered: 04/01/2019)
04/01/2019	<u>28</u>	Statement of: Undisputed Facts by Federal Bureau of Investigation (FBI), United States Department of Justice, United States Securities and Exchange Commission (SEC) re <u>27</u> Defendant's MOTION for Summary Judgment (Raurell, Carlos) (Entered: 04/01/2019)
04/09/2019	<u>29</u>	MOTION to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing for Matthew V. Topic. Filing Fee \$ 75.00 Receipt # 113C-11544800 by Ross H. Mandell. Responses due by 4/23/2019 (Attachments: # <u>1</u> Certification)(Astor, Mark) (Entered: 04/09/2019)

04/10/2019	<u>30</u>	ENDORSED ORDER granting <u>29</u> Motion to Appear Pro Hac Vice, Consent to Designation, and Request to Electronically Receive Notices of Electronic Filing. Matthew V. Topic is permitted to appear before this Court on behalf of Plaintiff Ross Mandell for all purposes relating to this action. The clerk is directed to provide Notice of Electronic Filings to Mr. Topic at foia@loevy.com. Signed by Judge Darrin P. Gayles (isc) (Entered: 04/10/2019)
04/29/2019	<u>31</u>	Unopposed MOTION to Modify Briefing Schedule by Ross H. Mandell. (Astor, Mark) (Entered: 04/29/2019)
04/30/2019	<u>32</u>	ORDER granting <u>31</u> Unopposed Motion to Modify Briefing Schedule. Signed by Judge Darrin P. Gayles. <i>See attached document for full details.</i> (isc) (Entered: 04/30/2019)
05/01/2019	<u>33</u>	Plaintiff's MOTION for Summary Judgment <i>Plaintiff's Combined Motion for Summary Judgment, Response to Defendants' Motion for Summary Judgment, and Memorandum in Support</i> by Ross H. Mandell. Responses due by 5/15/2019 (Astor, Mark) (Entered: 05/01/2019)
05/01/2019	<u>34</u>	Statement of: Plaintiff's Statement of Material Facts by Ross H. Mandell (Attachments: # <u>1</u> Exhibit 1 – Mandell Decl)(Astor, Mark) (Entered: 05/01/2019)
05/30/2019	<u>35</u>	REPLY to Response to Motion re <u>27</u> Defendant's MOTION for Summary Judgment (<i>Consolidated with Response to Plaintiff's MSJ</i>) filed by United States Department of Justice. (Raurell, Carlos) (Entered: 05/30/2019)
07/22/2019	<u>36</u>	PAPERLESS ORDER Setting Hearing on <u>27</u> Defendant's MOTION for Summary Judgment; <u>33</u> Plaintiff's MOTION for Summary Judgment for 8/15/2019 at 10:00 AM in Miami Division before Magistrate Judge Alicia M. Otazo-Reyes. Signed by Magistrate Judge Alicia M. Otazo-Reyes on 7/22/2019. (kmh) (Entered: 07/22/2019)
07/26/2019	<u>37</u>	PAPERLESS ORDER Resetting Hearing on <u>27</u> Defendant's MOTION for Summary Judgment; <u>33</u> Plaintiff's MOTION for Summary Judgment. The Hearing set for 8/15/2019 at 10:00 AM is hereby RESET to 8/30/2019 at 10:00 AM in Miami Division before Magistrate Judge Alicia M. Otazo-Reyes. Signed by Magistrate Judge Alicia M. Otazo-Reyes on 7/26/2019. (kmh) (Entered: 07/26/2019)
08/30/2019	<u>38</u>	PAPERLESS Minute Order for proceedings held before Magistrate Judge Alicia M. Otazo-Reyes: Motion Hearing held on 8/30/2019 re <u>33</u> Plaintiff's Combined Motion for Summary Judgment filed by Ross H. Mandell, <u>27</u> Defendants' MOTION for Summary Judgment filed by United States Securities and Exchange Commission (SEC), United States Department of Justice, Federal Bureau of Investigation (FBI). The Plaintiff's brief is due 9/13/2019. The Defendants' Response Brief is due by 9/27/2019. Matter taken under advisement. Total time in court: 1 hour(s) : 06 minutes. Attorney Appearance(s): Matthew V. Topic and Mark Gary Astor appeared on behalf of the Plaintiff; Carlos Javier Raurell appeared on behalf of the Defendants. Matter taken under advisement. (Digital 10:00:55) (sl) (Entered: 08/30/2019)
09/06/2019	<u>39</u>	TRANSCRIPT of motion hearing held on 8-30-2019 before Magistrate Judge Alicia M. Otazo-Reyes, 1-45 pages, Court Reporter: Dawn Savino (Whitmarsh), 305-523-5598 / Dawn_Savino@flsd.uscourts.gov. Transcript may be viewed at the court public terminal or purchased by contacting the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/27/2019. Redacted Transcript Deadline set for 10/7/2019. Release of Transcript Restriction set for 12/5/2019. (dwh) (Entered: 09/06/2019)
09/13/2019	<u>40</u>	NOTICE of Compliance (<i>PLAINTIFFS POST–HEARING BRIEF</i>) by Ross H. Mandell re 38 Motion Hearing,,, Set/Reset Deadlines,,, (Astor, Mark) (Entered: 09/13/2019)
09/26/2019	<u>41</u>	MEMORANDUM in Opposition re <u>40</u> Notice of Compliance <i>Plaintiff's Post Hearing Brief</i> by United States Department of Justice. (Attachments: # <u>1</u> Exhibit Declaration of Andrew Chan, # <u>2</u> Exhibit Exhibit 5 to Plaintiff's s. 2255 Motion)(Raurell, Carlos) (Entered: 09/26/2019)
10/03/2019	<u>42</u>	MOTION to Strike <i>Plaintiff's Motion to Strike Defendant's Additional Post–Hearing Evidence</i> by Ross H. Mandell. Responses due by 10/17/2019 (Attachments: # <u>1</u> Exhibit Proposed Post–Hearing Reply Brief)(Astor, Mark) (Entered: 10/03/2019)

10/11/2019	<u>43</u>	RESPONSE in Opposition re <u>42</u> MOTION to Strike <i>Plaintiff's Motion to Strike Defendant's Additional Post-Hearing Evidence</i> filed by United States Department of Justice. Replies due by 10/18/2019. (Raurell, Carlos) (Entered: 10/11/2019)
10/18/2019	<u>44</u>	REPLY to Response to Motion re <u>42</u> MOTION to Strike <i>Plaintiff's Motion to Strike Defendant's Additional Post-Hearing Evidence</i> filed by Ross H. Mandell. (Astor, Mark) (Entered: 10/18/2019)